

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

June 8, 2005

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. Environmental Justice in the San Diego/Tijuana Region: Tour and Briefing by the Environmental Health Coalition (EHC) for the Cal/EPA and the Public *(John Robertus)*
John Robertus attended a briefing presented to the public and senior Cal/EPA officials on May 23, 2005 at the EHC headquarters in National City. Dr Alan Lloyd, Cal/EPA Secretary was the keynote speaker and was joined by the several senior officials of the Boards, Departments and Offices with Cal/EPA. The briefing included concerns about regional impacts from air, water and sediment pollution, disparate equity in impacts from urban land uses and threats to human health for persons living and working in areas effected by harmful industrial chemicals and wastes. A tour of sites within the San Diego Bay urban area followed the briefing. John Robertus did not participate in the tour. Regional Board Members did not participate in this event because several of the topics discussed are known to be matters that the Board will consider in the near future. Several local elected and environmental officials also attended the event.

2. Public Outreach – Partnership 2000 Outstanding Connections - Statewide Local Enforcement Agency Conference *(John Odermatt)*

Since the late 1990's, the San Diego Regional Board and LEAs have made a serious attempt to meet regularly to coordinate our efforts and more efficiently regulated solid waste facilities in the San Diego Region. Our coordination efforts include convening quarterly coordination meetings with the County/City of San Diego LEAs and annual meetings including the Orange and Riverside County LEAs.

The California Integrated Waste Management Board (CIWMB) sponsors an annual conference to coordinate their solid waste local enforcement agencies (LEAs) from local jurisdictions located throughout California. Recognizing our unique attempts at agency coordination in the San Diego Region, the CIWMB staff and State Water Board Land Disposal Program Manager (Joe Mello) invited our Regional Board staff to speak about our agency coordination experiences with LEAs located in the San Diego Region. On May 12, 2005, Mr. John Odermatt (Supervisor of the Land Discharge and Underground Tanks Units) spoke about coordination issues as part of a session entitled "Coordinating with the RWQCBs – What you might want to know." The Regional Board staff described our experiences with agency coordination including the County (San Diego, Orange and Riverside) and City (San Diego) LEAs located in the San Diego Region. During the panel discussion, the Regional Board staff also shared some of our experiences and lessons learned from agency coordination concerning waste management issues from the 2003 Wildfires in San Diego County. Additional information on the

annual LEA conferences is available on-line at:
<http://www.ciwmb.ca.gov/Part2000/Events/>.

PART B

SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Sanitary Sewer Overflows (SSO) (*Charles Cheng, Bryan Ott, Victor Vasquez*) (*Attachment B-1*)
From May 1 to May 31, 2005, there were 9 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 3 of these spills reached surface waters or storm drains, but did not result in closure of recreational waters. Of the total number of overflows from public systems, four were 1,000 gallons or more. The combined total volume of reported sewage spilled from all publicly owned collection systems for the month of May 2005 was 41,345 gallons.

There were also 3 sewage overflows from private property reported in May 2005. One reached surface waters or storm drains, which resulted in closure of recreational waters. Of the total number of overflows from private property, none were 1,000 gallons or more.

The total rainfall amount for May 2005 recorded at San Diego Lindbergh Field was 0.12 inches. For comparison, in April 2005, a total of 0.59 inches of rainfall was recorded, and 21 public SSOs were reported. Also for comparison, in May 2004, a "Trace" amount of rainfall was recorded at San Diego's Lindbergh Field and 21 public SSOs were reported.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through May 31, 2005, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2001-2002.

It should be noted that the data for spill volume per volume conveyed (GAL/MG) could be easily misinterpreted. For a sewer agency that has a small system size but experienced a spill of a few hundred gallons or more, the value may show high. Also, for a sewer agency that has a large system, a high volume spill event may not result in a high value for this statistics. Hence, these numbers by themselves are not sufficiently representative of the measures being taken by a sewer agency to prevent SSOs, nor can the numbers be compared directly between agencies. The data does represent a different way to review and analyze SSO volume data as it relates to system size.

For additional information on SSO's in FY 2003-2004 see the table entitled "Public SSO Statistics Summary for FY 2003-2004 (July 1-June 30)" attached to the October 2004 Executive Officer's Report (also available on the Regional Board's website www.swrcb.ca.gov/rwqcb9). Additional information about the Regional Board's SSO regulatory program is available at the Regional Board's website at <http://www.swrcb.ca.gov/rwqcb9/programs/sso.html>.

No Notices of Violation for SSOs were issued during the month of May 2005.

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in May 2005 (Stacey Baczkowski) (Attachment B-2)

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a Section 404 permit from the Army Corps of Engineers, for filling or armoring of creeks and streams. See attached table (B-2).

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.waterboards.ca.gov/sandiego/programs/401cert.html>.

3. Grants Update (Dave Gibson) (Attachment B-3)

Status of Proposition 13 and 319(h) Grant Program Projects

The Regional Board and the State Water Resources Control Board (SWRCB) are continuing to work with several Proposition 13 grantees who are now in breach of contract or whose projects are considerably behind schedule. The Regional Board will work with these grantees to return them to schedule, but in consultation with the SWRCB, it may recommend termination of the contracts if the grantee does not make satisfactory progress on the project. Accordingly, in agreement with the grantee, the Regional Board has recommended terminating the USDA *Caulerpa taxifolia* Eradication Project and negotiating a new grant agreement with the Aqua Hedionda Lagoon Foundation to complete the project. The Regional Board is working with the USDA to close out the contract as soon as practicable.

The Regional Board has reviewed the final reports and invoices for the Phase I Proposition 13 projects. While most of the projects were successfully completed and properly reported and invoiced, one project with the City of San Diego Department of Planning and Land Use (Los Penasquitos Watershed Management Plan) was found, despite extensive assistance by the Regional Board since August 2004, to have significant deficiencies in accounting practices, invoicing, and reporting. These deficiencies prevented the Regional Board from approving the last 5 invoices, which constituted nearly 90% of the grant funds, before the end of the contract term.

Proposition 50 Integrated Regional Water Management (IRWM) Grant Program

The SWRCB and DWR received 54 proposals for IRWM Planning grants. Of those, nine submitted to both the IRWM planning grant and Integrated Coastal Watershed Management (ICWM) planning grant programs, and one proposal only submitted to ICWM planning grant program. SWRCB and DWR staff have completed the eligibility review and made initial review assignments. Reviewers for these proposals include representatives from the State and Regional Water Boards, DWR, State Coastal Conservancy, Department of Fish and Game, and California Coastal Commission. Technical reviews should be completed and submitted to the lead reviewer by June 24, 2005 and Consensus reviews among the reviewers for each proposal are due by July 11, 2005. The Selection Panel will complete the review process and submit a preliminary

funding recommendation to the SWRCB and DWR by August 24, 2005. The application due date for Step 1 Implementation grants is July 14, 2005, and the draft Public Solicitation for Proposals (PSP) for Step 2 Implementation grants will be released for public comment in mid-June 2005. The SWRCB will hold a workshop on the draft Step 2 PSP in late June 2005.

Consolidated Proposition 40 and Proposition 50 Grants Program

The SWRCB initiated the Consolidated Proposition 40 and Proposition 50 Grants Program with a focus meeting in Sacramento on May 13, 2005 for SWRCB, Regional Board and other agencies to begin work on the guidelines for the program. The anticipated grant process flow chart is attached (Attachment 1). The draft Guidelines for the program should be available for public review and comment in July 2005. Most of the grant funds must be encumbered by December 2006 and the projects must be completed by the grantees no later than September 2008. The Proposition 40 and Proposition 50 programs that will be included in this Consolidated Grants include:

- (1) Coastal Non-Point Source Pollution Control Program (\$33.1 Million);
- (2) Non-Point Source Pollution Control Program (\$19 Million);
- (3) 319(h) Program (\$4.5 Million);
- (4) Agricultural Water Quality Grant Program (\$14 Million).
- (5) Integrated Watershed Management Program (\$47.5 Million);
- (6) Urban Storm Water Program (\$14.25 Million);
- (7) CALFED Watershed Program (\$6 Million); and
- (8) CALFED Drinking Water Program (\$3.4 Million).

The Consolidated Grants program will make approximately \$142 million dollars available for projects starting in late 2006. Grant awards are expected to range from \$250,000 to \$5,000,000. Implementation of regional and state priorities will be emphasized in this grant program. This will be the last significant grant program from the Proposition 40 and 50 bond act funds.

State Revolving Loan Fund Program

The SWRCB has posted the State Revolving Loan Funding (SRF) Program's Draft Project Priority List (PRL) on its website for public review. The SWRCB is accepting comments during the public comment period. Written comments on the PRL were due to the SWRCB no later than 5:00 p.m. on May 23, 2005. The PRL will be presented at the SWRCB, Public Workshop on June 1, 2005 prior to consideration for adoption by the SWRCB on June 16, 2005.

Dairy Water Quality Grants Program (DGP)

The SWRCB will consider the revised Guidelines at its June 1, 2005 Workshop and June 16, 2005 Board meeting. The California Bay Delta Authority will review the revised Guidelines at its June 8 meeting. Information on the DGP can be found at:

<http://www.waterboards.ca.gov/funding/dairy.html>

4. Doheny Beach Epidemiological Study Letter (*Michael McCann*) (*Attachment B-4*)

Attached is a letter dated May 31, 2005 to the State Water Resources Control Board transmitting the adopted resolution in support of the proposed Doheny State Beach Epidemiological Study and Microbial Source Tracking Analysis. Included in the letter is a summary of the comments made during the public discussion of the item at the May 11 Board Meeting.

Also attached is a copy of a letter from the City of Dana Point dated May 23, 2005 in response to the Regional Board's adoption of the resolution.

5. Orange County Municipal Stormwater Permit Status (*Jeremy Haas*)

At the May 11, 2005 Regional Board Meeting, Board Member Wright requested a status update of the Municipal Separate Storm Sewer System (MS4) program in south Orange County. The Municipal Stormwater NPDES Permit for the portion of Orange County within the San Diego region (Order No. R9-2002-001) prescribes waste discharge requirements for discharges of urban runoff from the MS4s of the cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano, the County of Orange, and the Orange County Flood Control District. The current NPDES permit expires in February 2007, and the application renewal package is expected to be submitted by the permittees in July 2006.

Annual Reports from each municipality are submitted in November. A summary of the 2003-04 Reports can be found in the February 2005 Executive Officer's Report which is accessible on the Regional Board website—www.waterboards.ca.gov/sandiego. The 2003-04 Annual Reports document that the stormwater programs have improved when compared with the previous MS4 permit periods (1990-2001). In responding to the Annual Reports, the Watershed Protection Northern Region Unit (WPNU) highlighted several useful examples of sections from the reports that met Regional Board expectations for program evaluation and assessment of progress.

In March and April 2005 Bob Morris and Jeremy Haas of the WPNU met individually with eleven of the thirteen permittees to discuss the Annual Reports and planned program activities. These meetings provided an opportunity for the permittees to clarify information within the recent Annual Reports and to obtain a better understanding of what types of information the Regional Board expects in future Reports. The meetings also enabled the Regional Board to provide technical assistance on issues challenging the permittees.

The 2003-04 Annual Reports and our subsequent meetings demonstrated that significant program improvements include increased communication within municipal departments (e.g., planning, public works, code enforcement, etc.) and increased requirements for specific best management practices. Notable challenges facing most municipalities include timely assessments of water quality data and accurately measuring program effectiveness.

In May 2005 Tetra Tech, Inc., with assistance from the Regional Board, conducted comprehensive program evaluations of the following four permittees: the Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita. Each program evaluation included office and field verifications of program implementation. A program evaluation report is expected from Tetra Tech this summer. Four other permittees had been similarly evaluated in 2003.

The next Annual Reports are due in November 2005, and a status update can be provided to the Board following review.

6. Standard Urban Storm Water Mitigation Plan (SUSMP) Compliance Evaluations – San Diego County *(Phil Hammer)*

The Regional Board, with the assistance of Tetra Tech Inc., conducted compliance evaluations of 10 of the 21 San Diego Municipal Storm Water Permit Copermittees' Standard Urban Storm Water Mitigation Plan (SUSMP) programs in March 2005.

The SUSMP programs are a requirement of the San Diego Municipal Storm Water Permit designed to minimize impacts to receiving waters from new development and redevelopment. The programs require significant new development and redevelopment projects to incorporate elements into their design which reduce the amount of urban runoff leaving the project after it is completed. Runoff leaving these projects is also required to be treated by best management practices before being discharged to receiving waters. This reduction and treatment of urban runoff leaving new development and redevelopment projects helps ensure that pollutant discharges are reduced to the maximum extent practicable.

The primary goal of the SUSMP compliance evaluations was to determine each Copermittee's overall success in meeting the SUSMP requirements contained within the permit, with a focus on assessing how each Copermittee reviews, conditions, approves, and implements the SUSMP requirements for individual development projects. In general, the Copermittees which were evaluated were those Copermittees with the greatest number of significant new development and redevelopment projects occurring within their jurisdictions.

The report containing the findings of the compliance evaluations has been finalized. In the report, program strengths and weaknesses are identified for each Copermittee's SUSMP program. Common program weaknesses include lack of adequate treatment of runoff from capital improvement projects, failure to incorporate site design best management practices into development projects, and need for training of plan review staff. As a result of the findings of the report, the County of San Diego, City of Carlsbad, and City of Escondido received Notices of Violation for inadequate SUSMP program implementation. As a follow-up to the report, the Regional Board has requested information from each Copermittee regarding what steps will be taken to correct identified program weaknesses and/or violations.

The SUSMP Evaluation report can be obtained by contacting Phil Hammer at phammer@waterboards.ca.gov.

7. Proposed Gregory Canyon Landfill *(Carol Tamaki and John Odermatt) (Attachment B-7)*

On May 19, 2005, the Regional Board convened a Public Workshop on the proposed Gregory Canyon Landfill in the City Council Chambers at the City of Escondido. The objectives of the Public Workshop were: (1) to present the proposed Gregory Canyon Landfill project, (2) to answer questions from the public, and (3) to receive input from the public on the proposed project.

The consultants for Gregory Canyon Limited provided an overview of the proposed project. Public comments regarding water quality issues were then received during the workshop. There were four scheduled group presentations made by representatives for the Pala Band of Mission Indians, San Luis Rey Municipal Water District, Riverwatch, and the City of Oceanside. The Regional Board staff received 37 speaker slips and everyone who filled out a speaker slip was able to speak during the public workshop. Regional Board staff, State Water Board Land Disposal Program staff, and over 150 members of the public (including four Regional Board members) attended the public workshop. A recording of the proceedings is available on compact disc (CD). Oral written comments received during the workshop will be considered as the Regional Board staff prepares tentative waste discharge requirements for the proposed project.

Local newspaper articles were published in the San Diego Union-Tribune (May 21, 2005: attachment B-7a) and the North County Times (May 20, 2005: attachment B-7b) regarding the public workshop for the proposed Gregory Canyon Landfill.

The Regional Board has a website that includes an electronic copy of the Joint Technical Document (JTD) and updated news regarding the status of the proposed landfill:

http://www.waterboards.ca.gov/sandiego/programs/units/ldu/Canyon%20Project/gregory_canyon_landfill.html

During May 2005, the proposed Gregory Canyon Landfill project was added to the Regional Board electronic mailing list to more effectively provide updated information to Interested Parties. As of June 1, 2005, the electronic mailing list includes 49 individuals and/or organizations for the proposed Gregory Canyon Landfill project. The Regional Board web site now includes an electronic mailing list for proposed Gregory Canyon project at the following URL:

http://www.waterboards.ca.gov/lyrisforms/reg9_subscribe.html

8. Underground Storage Tank Program: Electronic Reporting Requirements *(Jody Ebsen and John Odermatt)*

The State Water Resources Control Board (SWRCB) contracts with various local agencies (Local Oversight Program or "LOP" agencies) for regulatory oversight of investigation and cleanup of unauthorized releases from leaking underground storage

tank (LUST) sites. Prior to closing a local lead LUST case, the contract requires that the LOP agencies submit their LOP Case Closure Summary to the Regional Board for review and comment. The San Diego Region includes three LOP agencies: County of San Diego Department of Environmental Health, County of Orange Health Care Agency, and Riverside County Department of Environmental Health. Electronic reporting of data for LUST/LOP sites went into effect in 2001. New state regulations expanding electronic reporting requirements for ground water cleanup sites went into effect on January 1, 2005 (also see May 2005 Executive Officer Report "Statewide Issues" for additional information).

On May 4, 2005, the Regional Board staff attended a statewide UST Roundtable where the agenda included a presentation on the topic of enforcement by Mark Bradley (SWRCB Office of Statewide Initiatives-OSI). During the follow-up discussion, Mr. Bradley and the SWRCB UST staff emphasized the need for the Regional Boards to ensure that Responsible Parties comply with the applicable State requirements for LUST sites. During the past several months, the Regional Board staff has become aware that the LOP agencies are continuing to seek Regional Board concurrence with closure of LOP cases, although the Responsible Party has not complied with any of the applicable State regulations requiring electronic reporting of information for LUST cases. During May 2005, the Regional Board staff denied requests for closure of four LOP cases (3 in San Diego County and 1 in Orange County) based in-part upon the failure by the LOP agencies to ensure that the affected Responsible Parties have complied with the minimum applicable electronic reporting requirements that have been in effect since 2001.

These LOP agencies provide regulatory oversight for approximately 1,384 (86%) of the leaking underground storage tank (LUST) sites in our region. The Regional Board staff has identified the need for compliance with the latest electronic reporting requirements as an important component in evaluating leaking underground storage tank (LUST) and LOP cases for no further action. In addition to compliance with electronic reporting requirements, the Order provides a framework on the minimum information that should be provided for the Regional Board to evaluate sites for no further action.

On May 25, 2005 the Regional Board issued Order No. R9-2005-0157 to the LOP agencies in San Diego, Orange and Riverside Counties. The Order specifically addresses two main compliance issues for closure of LOP cases:

- Compliance with the minimum electronic reporting requirements must be met prior to the LOP agencies submitting their LOP Case Closure Summary for review by the Regional Board; and,
- Identify the minimum information that must be provided for the Regional Board, as a complete paper copy and electronically reported in the Getotracker database, to consider "risk-based" closures proposed for LOP cases.

The issuance of Order R9-2005-0157 is the first phase of an outreach program intended to increase general awareness and gain increased compliance with electronic reporting

requirements. Face to face meetings will be scheduled as part of the outreach efforts. A complete copy of Order No. R9-2005-0157 may be obtained from the Regional Board's web site: <http://www.waterboards.ca.gov/sandiego/programs/units/tsmc/tsmc.html>

Dischargers/Responsible Parties for LUST cases are required to report a specified set of minimum electronic information (per [section 3893, Title 23, CCR](#)) into the SWRCB's Geotracker database. The Regional Board staff are currently developing similar requirements for a general Order, under authority of Water Code section 13267, requiring Dischargers/Responsible Parties at Regional Board lead LUST cases to continue providing the Regional Board with complete paper copies of technical submittals and comply with State's electronic reporting requirements.

9. Land Disposal Program: Electronic Reporting Requirements (*John Odermatt*)

The Regional Board Land Discharge Unit (LDU) staff has developed Technical Change Orders (TCOs) as a means of effectively implementing the 2005 statewide electronic reporting requirements for facilities regulated under California Code of Regulations (CCR), Title 27 (discharges of nonhazardous wastes to land) and CCR Title 23, Chapter 15 (discharges of hazardous wastes to land). These TCOs modify Monitoring and Reporting Programs at waste management units/landfills regulated by Waste Discharge Requirements (WDRs) in the San Diego Region. The TCOs are designed to:

- Implement the State Water Resources Control Board's statewide electronic reporting requirements under [section 3890, Title 23, CCR](#); and,
- require that Dischargers continue providing the Regional Board with paper copies of technical and monitoring reports.

As of June 1, 2005, the Regional Board has issued TCOs for 28 of the 60 land disposal facilities regulated by WDRs in the San Diego Region. Agenda item numbers 5 through 8 on today's agenda include compliance with electronic reporting requirements in the tentative addenda to WDRs for the five active civilian municipal solid waste (MSW) landfills (i.e., the Otay/Otay Annex, West Miramar, Sycamore, Ramona, and Prima Deshecha landfills) and one inactive MSW landfill (Anza Landfill) located in the San Diego Region. The objective of the LDU staff is to require compliance with the applicable electronic reporting requirements, through issuance of TCOs or amendments to WDRs, for all affected Land Disposal facilities by August 31, 2005. In addition, other regulatory enforcement actions (Orders issued pursuant to Water Code sections 13304, 13267, etc.) will also be amended to implement the applicable electronic reporting requirements.

10. Otay Landfill (*Brian McDaniel and John Odermatt*)

San Diego Landfill Systems recently completed construction on a 10-acre expansion of their waste management unit located within Canyon 3 of the Otay Landfill. On May 13, 2005, the Regional Board received a Construction Quality Assurance (CQA) Report for the Canyon 3 Phase 3B liner and leachate collection and removal system (LCRS). The report was submitted in accordance with California Code of Regulations, Title 27, section

20324 and provides engineering certification for the construction of the liner and LCRS. The report indicates that all design elements are consistent with previous Canyon 3 liner designs. Section 20310(e) requires the Regional Board to conduct a final inspection on all new containment structures upon construction completion, and before waste disposal operations commence within the new waste management unit. On May 13, 2005, Regional Board staff completed an inspection of the new waste management unit.

11. Mission Bay Landfill (*Brian McDaniel and John Odermatt*)

On March 16, 2005, San Diego City Councilmember Donna Frye, the City Environmental Services Department staff, and the Mission Bay Landfill Technical Advisory Committee (TAC) hosted a press conference for a UCSD class project to identify landfill gas emissions at the former Mission Bay Landfill. Dr. Natalie Jeremijenko from the UCSD Department of Visual Arts headed the project. Dr. Jeremijenko and her students deployed eight-landfill gas sniffing robotic devices at the former Mission Bay Landfill. The devices were in the form of robotic dogs constructed as part of a class project. The robotic dogs were re-engineered from former children's toys and enhanced by engineering students. The enhancements included computer operated all-terrain wheels and air-sampling devices intended to collect surface air samples. The goal of the project was to see if the devices could detect any volatile organic compounds (VOCs vapors or landfill gases) emanating from the former 115-acre landfill site. In an update to the TAC committee given on May 20, 2005, Dr. Jeremijenko indicated that VOCs were not detected during the project demonstration.

12. Cleanup and Abatement Order: City of San Diego--Fashion Valley Road Culverted Crossing Replacement (*Mike Porter*)

The Regional Board issued Cleanup and Abatement Order (CAO) No. R9-2005-0174 to the City of San Diego on May 24, 2005 for the discharge of waste to the San Diego River. The CAO requires that the City of San Diego submit a report documenting cleanup activities to the Regional Board by July 22, 2005. The waste was from the collapsed Fashion Valley Road culverted crossing. Discharged waste (steel pipes, gravel aggregate, safety cones, traffic pylons, traffic barriers, and caution tape) was observed by the Regional Board at least 400 feet downgradient of the collapsed crossing on May 19, 2005.

The discussion of the Fashion Valley Road Crossing Replacement Project at the June 8, 2005 Regional Board meeting is not intended to be a formal discussion on the directives of the CAO. The City may want to discuss the CAO at the June 8 meeting and may also inform the Regional Board that it will not request a hearing on the CAO. If the City, however, wishes to have a hearing on the CAO, a hearing on the matter will be scheduled for a subsequent Board meeting.

13. Status of Administrative Civil Liability (ACL) Complaints (*Mark Alpert, Frank Melbourn, Vicente Rodriguez, Rebecca Stewart, Compliance Assurance Unit*)

The following is the status of list of Administrative Civil Liability (ACL) Complaints for which hearings have not occurred and the potential liabilities have not been resolved.

Complete details of the Complaints can be found on the Regional Board web site at <http://www.waterboards.ca.gov/sandiego/>

**A. City of Escondido, Hale Avenue Resource Recovery Facility (HARRF)
Violations of Effluent Limitations subject to Mandatory Minimum Penalties**

The City of Escondido continues to face a potential minimum mandatory penalty of approximately \$1.2 million for 399 effluent violations that occurred between May 3 and August 17, 2004. These included violations of daily maximum, average weekly, and monthly limitations, for both carbonaceous biological oxygen (CBOD) demand and total suspended solids (TSS) concentrations. The initial ACL Complaint, issued on November 30, 2004, was withdrawn to afford the City time to submit a technical report investigating the circumstances of violations, cause and effect on the plant, and the affect on receiving waters.

The Regional Board is continuing its review of the City's investigative report, submitted on April 5, 2005. The Regional Board is receiving assistance from Boris Trgovcich of the State Board's Compliance Assurance and Enforcement Unit. This matter will be brought before the Regional Board at a future Regional Board meeting.

**B. City of San Diego, Point Loma Treatment Plant, San Diego, CA
\$42,000 ACL Complaint No. R9-2005-0083**

The ACL hearing on this matter has been rescheduled for August 10, 2005, to provide the City's Metropolitan Wastewater Department additional time to develop a possible settlement offer, which may include a list of potential Supplemental Environmental Projects (SEPs) for Regional Board review.

The complaint was issued against the City for 16 violations of effluent limitations contained in the National Pollutant Discharge Elimination System Permit (NPDES) Permit for the Point Loma Metropolitan Wastewater Treatment Plant Discharge to the Pacific Ocean through the Point Loma Ocean Outfall, San Diego County. According to the Water Code, a maximum of \$28,000 of the liability could be diverted to fund SEPs.

**C. JRMC Real Estate, Inc, Escondido Research & Technology Center,
Escondido, CA. \$1.26 million ACL Complaint No. R9-2005-0059**

The public hearing has been postponed to August 10, 2005, to allow JRMC and the City of Escondido to prepare for a requested formal hearing.

The Regional Board inspected JRMC's site on May 10, 2005 and documented another day of sediment discharge from its desiltation basin into Escondido Creek. Now that the wet season is over, JRMC is finally installing fiber mats on its exterior slopes. Furthermore, JRMC has proposed that prior to the start of the next wet season, Oct. 1, that the entire 186-acre site will be adequately landscaped, properly

sized desilting basins will be installed, contractors will be trained on storm water regulations, and a biologist will be onsite to assess the damage its discharges have done to Escondido Creek.

The complaint, issued against JRMC, was based on: 82 days of sediment discharge to Escondido Creek directly or indirectly via the City of Escondido's Municipal Separate Storm Sewer System (MS4), 166 days of inadequate implement Best Management Practices (BMPs); at least 16 days of failure to collect and analyze storm water runoff and to submit monitoring reports, and failure to assess BMPs after storm events in violation of Cleanup and Abatement Order (CAO) R9-2004-0420. Multiple days of additional discharges of sediment have been documented since the Complaint was first issued.

D. City of Escondido, MS4 Permit, Escondido, CA
\$129,000 ACL Complaint No. R9-2005-0097

The public hearing has been postponed to August 10, 2005, in part, so that the hearing on this matter would be heard concurrently with the JRMC hearing.

The complaint was issued because of the City's failure to provide adequate oversight of JRMC at the Escondido Research and Technology Center (ERTC) site to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP) in violation of the San Diego Municipal Storm Water Permit, Order No. 2001-01.

E. Metropolitan Transit System (MTS) and Metropolitan Transit Development Board (MTDB), Mission Valley Light Rail San Diego, CA.
\$500,000 ACL Complaint R9-2005-0062

MTS/MTDB has until July 1, 2005 to evaluate its options and to propose a settlement of the liability that could be considered by the Regional Board.

It is anticipated that the matter will be brought before the Regional Board in August 2005.

The complaint alleges: 27 days of sediment discharges to waters of the State, 449 days of inadequate Best Management Practices (BMPs) spanning a 2-year period, and 1 day of sewage discharge, in violation of the Statewide Construction Storm Water Permit (State Board Order No. 99-08-DWQ).

F. SeaWorld San Diego Discharge to Mission Bay
\$6,000 ACL Complaint No. R9-2005-0129 with Mandatory Minimum Penalty

On May 16, 2005, the Executive Officer issued Complaint No. R9-2005-0129 to SeaWorld San Diego in the amount of six thousand dollars (\$6,000) for violations of effluent limitations contained in Regional Board *Order No. 2000-0025, NPDES No. CA0107336, Waste Discharge Requirements for SeaWorld San Diego, San Diego County, Discharge to Mission Bay*. A public hearing is scheduled to take place at the August 10, 2005 Board meeting. SeaWorld has until June 27, 2005 to waive their right to a public hearing. If a waiver is submitted, the Regional Board will consider acceptance of the waiver at the August 10, 2005 Board meeting.

**G. Dakota Ranch Development Co., Dakota Ranch Subdivision, Santee, CA
\$140,500 ACL Complaint No. R9-2005-0176**

On May 27, 2005, the Executive Officer issued Administrative Civil Liability Complaint No. R9-2005-0176 in the amount of \$140,500 to Dakota Ranch Development Co., LLC for alleged violation of the Section 401 Water Quality Certification issued January 30, 2003 for the Dakota Ranch Subdivision. A public hearing is scheduled to take place at the August 10, 2005 Board meeting. Dakota Ranch Development Co., LLC has until June 27, 2005 to waive their right to a public hearing. If a waiver is submitted, the Regional Board will consider acceptance of the waiver at the August 10, 2005 Board meeting.

PART C
STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Governor's Proclamation on Tribal Gaming (*Michael McCann*) (*Attachment C-1*)

Attached is the Governor's Proclamation on Tribal Gaming that was issued on May 18, 2005. The proclamation specifies that the Regional Water Quality Control Boards will be given copies by Governor's Office of Planning and Research of every notice of Tribal application for acquisition of lands by the federal government for the purpose of class III gaming. In addition, Cal/EPA will distribute copies of the notices to appropriate State board and department organizations for input. The Water Boards will be required to review and provide feedback to the Legal Affairs Secretary who will determine if it needs to be shared with Bureau of Indian Affairs.